

1  
2  
3 IN THE UNITED STATES DISTRICT COURT  
4 FOR THE NORTHERN DISTRICT OF CALIFORNIA  
5

6 UNITED STATES OF AMERICA,

7 Plaintiff,

8 v.

9 ANGELO DELAROSA,

10 Defendant.

) No. CR 11-00778-1 RS

) [PROPOSED] STIPULATED  
) ORDER REFERRING  
) DEFENDANT FOR COMPETENCY  
) EVALUATION

) **Hearing Date:** Tuesday, September  
11, 2012 at 2:30 p.m.

11  
12  
13 The defendant Angelo Manuel Delarosa is now before the Court on charges of having  
14 violated his conditions of supervised release. Counsel for Mr. Delarosa on this matter is  
15 Assistant Federal Public Defender Steven Kalar. AFDK Kalar represented Mr. Delarosa on  
16 the original case that resulted in a term of supervised release. That original case, which was  
17 litigated before this Court, concluded roughly one month before the allegations of violations  
18 of supervised release.

19 At the initial appearance before this Court on the allegation of a violation of supervised  
20 release, defense counsel moved this Court to refer Mr. Delarosa to the Bureau of Prisons for  
21 a competency evaluation under 18 U.S.C. § 4241(b). The government did not object to this  
22 motion.

23 This Court is familiar with the facts leading to the conviction in the original case, has  
24 reviewed the presentence report in the original case, and has observed the courtroom  
25 demeanor of the defendant. It is undisputed that the defendant suffers from mental health  
26

1 issues, and that he has been previously diagnosed and has received medication for mental  
2 health conditions.

3 In addition, on September 11, 2012, AFPD Kalar – defense counsel on the original case  
4 and on the supervised release violation – made representations on the record in support of the  
5 defense motion for a competency evaluation. Specifically, Mr. Kalar represented his belief  
6 that Mr. Delarosa is presently suffering from a mental disease or defect that impairs his  
7 ability to assist counsel in the defense of the supervised release allegations.

8 Based on the Court's familiarity with the case, the facts of the alleged supervised  
9 release violations, and in light of the motion of defense counsel who has had extended  
10 contact with Mr. Delarosa, the Court finds that there is reasonable cause to believe that the  
11 defendant may presently be suffering from a mental disease or defect rendering him mentally  
12 incompetent to the extent that he is unable to understand the nature and consequences of the  
13 proceedings against him or to assist properly in his defense. 18 U.S.C. § 4241(a).

14 The Court therefore grants the motion of defense counsel to determine the competency  
15 of the defendant. *Id.* To assist the Court in that determination, the Court orders that a  
16 psychiatric or psychological examination of Mr. Delarosa be conducted, and that a  
17 psychiatric or psychological report be filed with the court. 18 U.S.C. § 4241(b).

18 The Court commits Mr. Delarosa to the custody of the Attorney General for this  
19 psychiatric or psychological examination. 18 U.S.C. § 4247(b). Mr. Delarosa is currently in  
20 the custody of the United States Marshal in the Northern District of California. The defendant  
21 may be transferred to a suitable Bureau of Prisons facility for the purpose of this  
22 examination. *Id.*

23 The United States Marshal is asked to expedite the transfer of Mr. Delarosa to this  
24 Bureau of Prisons facility.

25 Mr. Delarosa shall be committed to the custody for the Attorney General for the purpose  
26 of this evaluation for no longer than thirty days after the date of his arrival at this facility. *Id.*

1 The Warden of this facility may apply for a reasonable extension in which to conduct the  
2 examination upon showing of good cause that the additional time is necessary to observe and  
3 evaluate Mr. Delarosa. *Id.* Any requested extension shall not exceed fifteen days, and must  
4 be supported by a specific explanation of the good cause that makes this extension necessary.  
5 *Id.*

6 To the extent permitted by duties of confidentiality and loyalty, defense counsel for Mr.  
7 Delarosa is directed to provide information and material to the examiner to assist in the  
8 preparation of the report. Government counsel is ordered to prepare a complete file, including  
9 full discovery and the presentence report from the original case, and to provide this to the  
10 facility designated before Mr. Delarosa's arrival. The government is authorized and directed  
11 to also produce to the Bureau of Prisons the Form 12 allegations of violations of supervised  
12 release, and the police report disclosed to counsel by Probation on September 11, 2012.

13 The mental health professional conducting the evaluation shall prepare a report in  
14 compliance with Section 4247(c) and (c)(4)(A) of Title 18. The Bureau of Prisons shall  
15 provide this report to the Court, to government counsel, and to defense counsel Steven Kalar  
16 no later than three weeks after the conclusion of the period of evaluation described above.

17 //

18 //

19 //

20 //

21 //

22 //

23 //

24 //


25 //

26 //

1 The matter shall be added to this Court's calendar on Tuesday, **December 18, 2012, at**  
2 **2:30 p.m.** for status regarding competency and to set a date for a competency hearing, if  
3 necessary. The parties are directed to meet and confer, and to seek an earlier date for the  
4 status appearance if the competency evaluation is complete.

5 IT IS SO ORDERED.

6  
7 9/12/12  
8 DATED

  
RICHARD SEEBORG  
United States District Court Judge

9  
10 IT IS SO STIPULATED.

11 September 12, 2012  
12 DATED

\_\_\_\_\_/s  
MELINDA HAAG  
United States Attorney  
Northern District of California  
PHILIP KEARNEY  
Assistant United States Attorney

13  
14  
15 September 12, 2012  
16 DATED

\_\_\_\_\_/s  
GEOFFREY A. HANSEN  
Federal Public Defender  
Northern District of California  
STEVEN G. KALAR  
Assistant Federal Public Defender